

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EDWIN LORENZO,	:	Civil No. 08-4079 (MLC)
	:	
Petitioner,	:	O R D E R
	:	
v.	:	
	:	
T. MICHAEL POWER, et al.,	:	
	:	
Respondents.	:	
_____	:	

A Petition for Writ of Habeas Corpus having been filed in the above action, pursuant to 28 U.S.C. § 2254; and notice having been given pursuant to Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000), that in the absence of extremely limited circumstances and prior approval of the United States Court of Appeals for the Third Circuit, a claim presented by Petitioner to this Court in a second or successive § 2254 petition shall be dismissed, see 28 U.S.C. § 2244(b); and Petitioner having advised this Court that a state petition for post-conviction relief is pending before the Superior Court of New Jersey; and Petitioner having nevertheless asked this Court to consider the Petition pending before this Court as his one all-inclusive § 2254 Petition;

IT IS THEREFORE on this 27th day of October, 2008,

ORDERED that the Clerk of the Court shall serve copies of the Petition and this Order upon Respondents and upon the Attorney General of the State of New Jersey, by certified mail,

return receipt requested, with all costs of service advanced by the United States; and it is further

ORDERED that, in accordance with Rule 4 of the Rules Governing Section 2254 Cases, see 28 U.S.C. § 2254 Rule 4, this Court has screened the Petition for dismissal and finds that dismissal of the Petition is not warranted; and it is further

ORDERED that Respondents shall file a full and complete answer to said Petition within 45 days of service of this Order, see Ukawabutu v. Morton, 997 F. Supp. 605 (D.N.J. 1998); and it is further

ORDERED that Respondents' answer shall address the allegations of the Petition by each paragraph and subparagraph and shall adhere to the requirements of 28 U.S.C. § 2254 Rule 5; and it is further

ORDERED that Respondents shall state in the answer whether any claim in the Petition is barred by a failure to exhaust state remedies, a procedural bar, non-retroactivity, or a statute of limitations, see 28 U.S.C. § 2254 Rule 5(b); and it is further

ORDERED that the answer shall address the merits of each claim raised in the Petition, see 28 U.S.C. § 2254(b)(2); and it is further

ORDERED that the answer shall indicate what transcripts (of pretrial, trial, sentencing, or post-conviction proceedings) are

available, when they can be furnished, and what proceedings have been recorded but not transcribed; and it is further

ORDERED that Respondents shall attach to the answer parts of the transcript that the Respondents consider relevant and, if a transcript cannot be obtained, Respondents may submit a narrative summary of the evidence, see 28 U.S.C. § 2254 Rule 5(c); and it is further

ORDERED that Respondents shall file with the answer a copy of: (1) any brief that Petitioner submitted in an appellate court contesting the conviction or sentence, or contesting an adverse judgment or order in a post-conviction proceeding; (2) any brief that the prosecution submitted in an appellate court relating to the conviction or sentence; and (3) the opinions and dispositive orders of the appellate court relating to the conviction or the sentence, see 28 U.S.C. § 2254 Rule 5(d); and it is further

ORDERED that the answer shall contain an index which identifies each exhibit filed with the answer; and it is further

ORDERED that Respondents shall either (1) file exhibits from the state court record electronically, or (2) file two hard copies of exhibits from the state court record with the Clerk's Office located at 402 East State Street, Trenton, New Jersey 08608; and it is further

ORDERED that Petitioner may file and serve a reply to the answer within 45 days of Petitioner's receipt of service of same, see 28 U.S.C. § 2254 Rule 5(e).

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge